

scheduled in advance and during which an employee is required to perform on a regularly recurring basis.

§ 532.503 Overtime pay.

(a)(1) Employees who are exempt from the overtime pay provisions of the Fair Labor Standards Act of 1938, as amended, shall be paid overtime pay in accordance with 5 U.S.C. 5544 and this section. Employees who are non-exempt shall be paid overtime pay in accordance with part 551 of this chapter.

(2) Hours of work in excess of eight in a day are not included in computing hours of work in excess of 40 hours in an administrative workweek.

(b) *Effect of leave on overtime pay.* (1) Hours during which an employee is absent from duty on paid leave during time when the employee otherwise would have been required to be on duty shall be considered hours of work in determining whether the employee is entitled to overtime pay for work performed in excess of eight hours a day or 40 hours a week.

(2) For the purposes of paragraph (b)(1) of this section paid leave includes but is not limited to:

- (i) Annual or sick leave;
- (ii) Authorized absence on a day off from duty granted by Executive or administrative order; or
- (iii) Authorized absence on a legal holiday;

(3) Hours during which an employee is absent from duty on leave without pay during a time when he/she otherwise would have been required to be on duty shall not be considered hours of work in determining whether he/she is entitled to overtime pay for work performed in excess of eight hours in a day or 40 hours in a week.

(c) *Callback overtime work.* Irregular or occasional overtime work performed by an employee on a day when work was not regularly scheduled for the employee or for which the employee has been required to return to the place of employment shall be considered to be at least two hours in duration for the purpose of overtime pay, regardless of whether the employee performs work for two hours.

(d)(1) An employee regularly assigned to a night shift, who performs overtime

work which extends into or falls entirely within a day shift, shall be entitled to overtime pay computed on the night rate.

(2) When the overtime is performed on a nonworkday the employee shall be entitled to overtime pay computed on the rate of the employee's last previous regularly scheduled shift.

(e)(1) An employee regularly assigned to a rotating schedule involving work on both day and night shifts who performs overtime work which extends or falls entirely within the succeeding shift shall be entitled to overtime pay computed on the rate of the employee's regularly scheduled shift in effect for that calendar day.

(2) When the overtime is performed on a nonworkday, the employee shall be entitled to overtime pay computed on the average rate of basic pay for all regularly scheduled shifts worked by the employee during the basic workweek.

(f) For an employee covered by 5 U.S.C. 5544, hours in a standby or on-call status or while sleeping or eating shall not be credited for the purpose of determining hours of work in excess of 8 hours in a day.

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§ 532.504 Compensatory time off.

(a) At the request of an employee, the head of an agency may grant compensatory time off from an employee's tour of duty instead of payment under § 532.503 or the Fair Labor Standards Act of 1938, as amended, for an equal amount of irregular or occasional overtime work.

(b) At the request of an employee, the head of an agency may grant compensatory time off from an employee's basic work requirement under a flexible work schedule under 5 U.S.C. 6122 instead of payment under § 532.503 or the Fair Labor Standards Act of 1938, as amended, for an equal amount of overtime work, whether or not irregular or occasional in nature.

(c) An agency may not require that an employee be compensated for overtime work with an equal amount of compensatory time off from the employee's tour of duty. An employee